

1 **Ordinance No. 2019-008**

2
3 AN ORDINANCE AMENDING PROVIDENCE CITY CODE TITLE 8 WATER AND SEWER BY ADDING
4 CHAPTER 5 SECONDARY IRRIGATION WATER SYSTEM DEPARTMENT AND SYSTEM REGULATIONS.
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6 WHEREAS UCA § 10-3-702 states “The governing body may pass any ordinance to regulate,
7 require, prohibit, govern, control or supervise any activity, business, conduct or condition
8 authorized by this act or any other provision of law. . .” and
9

10 WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote
11 the prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality
12 and its present and future inhabitants and businesses, to protect the tax base, to secure
13 economy in governmental expenditures, to foster the state's agricultural and other industries, to
14 protect both urban and nonurban development, to protect and ensure access to sunlight for
15 solar energy devices, to provide fundamental fairness in land use regulation, and to protect
16 property values in areas that may be considered sensitive, including but not limited to fire
17 danger, slope, and soil content.
18

19 WHEREAS the purpose of this code amendment is to make Secondary Water available for
20 outside watering of, among other properties, those properties served by Providence City’s
21 culinary water system, thereby reducing the demand on that system during peak-use months.

- 22 • Providence City staff has prepared the attached code amendment.
 - 23 ○ Creates the Secondary Water Department and designates the Public Works
 - 24 Director as the Secondary Water Director;
 - 25 ○ Provides definitions for the Chapter;
 - 26 ○ Provides for enforcement and penalty for violations;
 - 27 ○ Provides for emergency service interruption, and liability and damages
 - 28 ○ Provides for a standing offer to purchase water stock, water shares, and water
 - 29 rights;
 - 30 ○ Provides for connection to the system; user rates, fees, and charges, prohibited
 - 31 acts, private system, maintenance of facilities and equipment, use of water,
 - 32 safety considerations, demands on the system, and appeals.
33

34 THEREFORE be it ordained by the Providence City Council

- 35 • The attached code amendment shall be approved based on the findings of fact,
36 conclusions of law, and conditions listed above and the recommendation of the
37 Providence City Planning Commission.
- 38 • This ordinance shall become effective immediately upon passage and posting or 30 days
39 after final passage, whichever is closer to the date of final passage.
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41 Ordinance adopted by vote of the Providence City Council this 26 day of March 2019.
42

43 Council Vote:

44 Allen, Kirk	() Yes	() No	() Excused	() Abstained	() Absent
45 Eck, Kristina	() Yes	() No	() Excused	() Abstained	() Absent
46 Fresz, Brent	() Yes	() No	() Excused	() Abstained	() Absent
47 Giles, Dennis	() Yes	() No	() Excused	() Abstained	() Absent
48 Sneddon, Roy	() Yes	() No	() Excused	() Abstained	() Absent

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Signed by Mayor John Drew this day of _____ March 2019.

Providence City

John Drew, Mayor

Attest:

Skarlet Bankhead, Recorder

DRAFT

SECONDARY IRRIGATION WATER SYSTEM DEPARTMENT AND SYSTEM REGULATIONS

SECTION

- 8-5-1: Intent and Purpose
- 8-5-2: Secondary Irrigation Water Department Created
- 8-5-3: Definitions
- 8-5-4: Secondary Water Director
- 8-5-5: Secondary Water Master Plan
- 8-5-6: Enforcement
- 8-5-7: Emergency Service Interruption
- 8-5-8: Liability and Damages
- 8-5-9: Connection to the System
- 8-5-10: User Rates, Fees, and Charges
- 8-5-11: Prohibited Acts
- 8-5-12: Maintenance of Facilities and Equipment
- 8-5-13: Use of Water
- 8-5-14: Safety Considerations
- 8-5-15: Demands on the System
- 8-5-16: Penalty for Violation
- Appendix A City-Operated Secondary Irrigation Water System Designated Services Areas
- Appendix B City-Operated Secondary Irrigation Water System Utility Rates

8-5-1: INTENT AND PURPOSE:

- A. The intent of this ordinance is to provide administrative, generalized technical, and operational principles for implementation and management of pressurized, City-Operated Secondary Irrigation Water System in Providence City. This system shall provide secondary water to home owners, Home Owners Associations (HOAs), and the City of Providence untreated irrigation water to designated geographic areas such as neighborhoods, new real estate developments, and City parks.
- B. It is not the intent of Providence City to assume control and maintenance of any irrigation company canals, or that residents be required to participate in the City-Operated Secondary Irrigation Water System. Rather, it is the City’s intent to establish the framework by which residents, both current and future, may be provided an alternative to treated culinary water.
- C. The purpose of this Chapter is to make secondary irrigation water available for outside watering of those properties served by Providence City’s culinary water system, thereby reducing the demand on the culinary system during peak-use months. The City-Operated Secondary Irrigation Water System will be made available to the residents and businesses in the City as designated in Appendix A of this Ordinance, “City-Operated Secondary Irrigation Water System Designated Services Areas.”

8-5-2: SECONDARY IRRIGATION WATER SYSTEM DEPARTMENT CREATED:

The Secondary Irrigation Water System Department shall be a department of Public Works and

1 administered by the Public Works Director.

2 A. The City hereby establishes the Secondary Irrigation Water System Department of the
3 City which shall operate as an enterprise fund. The purpose of the Secondary Irrigation
4 Water System Department is to make available non-culinary water within the Service
5 Areas of the City. A Service Area is defined and specified as areas designated in
6 Appendix A of this Ordinance, "City-Operated Secondary Irrigation Water System
7 Designated Services Areas." The Secondary Water Department shall administer the
8 operation and maintenance of the Secondary Water System of the City within the areas
9 designated as Service Areas.

10 B. All connection fees and monthly User Charges collected under the provisions of this
11 Chapter shall be used to meet the operation and maintenance cost of delivery of
12 secondary water; debt service on obligations appertaining to the construction of any
13 Secondary Water System created; the payment of actual construction costs associated
14 with the completion of such System; and such other allocations as the City Council may
15 by resolution provide. Connection fees, User Charges and other user assessments shall
16 be set forth in Appendix B, "Connection Fees and User Charges."

17 C. This ordinance is intended to accommodate additional service areas as developed. It is
18 the express intent of the Providence City Council by passage of this ordinance to
19 encourage the use of secondary water for outdoor uses instead of treated culinary
20 water which is primarily for indoor use. The use of culinary water for outdoor watering
21 of lawns and gardens is discouraged when irrigation water is available from the City-
22 Operated Secondary Water System. The City will make every effort to encourage and
23 incentivize residents to make connections to and the use of secondary water a priority
24 when possible.

25 D. The Secondary Irrigation Water System is designed as a pressurized on-demand system.
26 It does not require taking turns on a designated day and time by a schedule as is
27 required of shareholders in the two City-based irrigation companies, Spring Creek Water
28 Company (SCWC) and Providence Blacksmith Fork Irrigation Company (BFIC). Typically, a
29 shareholder from one of these companies takes most, if not all canal (lateral) water
30 during their turn by means of flood irrigation while others await their turn.

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32 **8-5-3: Definitions**

33 The following terms used in this Chapter shall have the respective meanings hereinafter set
34 forth:
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A.	BENEFICIAL USE	The purpose to which water diverted under a water right is applied and the amount of that Beneficial Use. Examples include but are not limited to irrigation (amounts measured in acres); stock watering (amounts measured in numbers of equivalent livestock units); domestic (indoor residential-amounts measured in numbers of equivalent domestic units); and commercial, industrial, City (amounts measured in acre-feet). This definition reflects Beneficial Use as defined by the State of Utah, Administrative Rule R655-16. Any changes to the definition of Beneficial Use by the State of Utah shall also change the Providence City definition of Beneficial Use.
B.	CHAPTER	This chapter, Chapter 5 of Title 8 of the Providence City Code.

C.	CITY	Providence City
D.	CITY VALVE	The point of connection between the System and the applicant's secondary irrigation water pipe.
E.	COMPANY	Spring Creek Water Company or Providence Blacksmith Fork Irrigation Company, as appropriate.
F.	CULINARY WATER	Culinary water is also known as drinking water or potable water; it is water that has been treated and tested as safe for human consumption in accordance with state water quality standards.
G.	CULINARY WATER SYSTEM	The culinary water system that is operated by the City of Providence, meets state water quality standards and undergoes rigorous testing to ensure it is safe for human consumption.
H.	DELINQUENT	An account is considered Delinquent if the bill is not paid within 30 days of the due date. Delinquent secondary irrigation bills may result in the termination of Secondary Water Service or criminal penalties as prescribed in this ordinance.
I.	DEPARTMENT	The Secondary Water Department.
J.	DISCONNECTION	Shutting off a meter, valve, or service line so that no irrigation water can pass through the lines. Disconnection happens when customer payment is delinquent, at the written request of the owner, if a health and safety issue occurs, or if violations of this Chapter occur. A fee is charged for this service and must be performed by a Public Works employee.
K.	INDIVIDUAL UNIT	A separately metered residence, a lot, garden lot or tract, vacant lot, or other unit served by irrigation water, whether or not maintained in the same group as other units or parcels. Each separate unit shall be required to pay minimum rates herein established.
L.	IRRIGATION SEASON	The period during the year when irrigation rights provide available water. This is usually from May 1 to September 30.
M.	CITY-OPERATED IRRIGATION SYSTEM	The piped and pressurized Secondary Water System, as defined herein.
N.	IRRIGATION WATER	Secondary Water, as defined herein below.
O.	PEAK USE MONTHS	Those months when demand for usage of culinary water includes irrigation of lawns, gardens and parks; usually considered the months of May through September.
P.	PHYSICALLY REMOVED/RESTORED	In reference to a section or length of water line, removed such that no water may flow through the line, or restoring such a section or length so as to allow water to flow through the line.
Q.	PRESSURIZED SYSTEM	A pressurized system has a constant pressure fed by a demand-actuated variable-speed motor, or a reservoir creating continuous gravity-sourced pressure.
R.	PRIVATE FACILITIES	Piping and equipment beyond the City valve (where the user's system connects to the City-Operated Secondary Irrigation Water System).

S.	REASONABLE USE	The concept of reasonable use is based on the underlying premise that inefficient use of water is an unreasonable use of water. It is the use of water wherein specific garden plants, trees, shrubs or grass are supplied with an adequate and non-wasteful amount of water to that vegetation only, without overwatering to the extent of running down streets and gutters. The goal of reasonable use to achieve the maximum benefit for the least amount of water used.
T.	RECONNECTION	Opening the main service valve to allow water to flow through the service line so as to restore the pressurized City-Operated Secondary Irrigation Water Service. Reconnection requires payment of a fee and must be performed by a Public Works employee.
U.	SECONDARY WATER	Untreated surface water that is non-potable and of lower quality than culinary water. it is unsafe to drink and must be used solely for irrigation. "Secondary Water" and "Irrigation Water," as referenced and used in this Chapter, shall have the same meaning.
V.	SECONDARY WATER DEPARTMENT	The City staff charged with the administration of the Secondary Water System.
W.	SECONDARY WATER DIRECTOR or DIRECTOR	The Providence City Public Works Director or designee.
X.	CITY-OPERATED SECONDARY IRRIGATION WATER SYSTEM	The infrastructure, facilities, and appurtenant structures or devices (collectively "components") owned or controlled by or through the City, and operated and administered by the Secondary Water Department to collect, conduct, and deliver pressurized secondary water. "City-Operated Secondary Irrigation Water System" includes both the components thereof as well as the water carried thereby or provided therefrom.
Y.	SERVICE AREAS	Areas of the City that have appropriate piping, valves and meters to supply pressurized secondary water to an area served by the Secondary Water Department and designated in Appendix A of this ordinance.
Z.	SYSTEM	When used in this ordinance, System shall refer to the City-Operated Secondary Irrigation Water System
AA.	WATER USER	Any User or other recipient of secondary water delivered by the System.
BB.	USER CHARGES	Connection and other charges as well as monthly fees assessed to users of the City-Operated Secondary Irrigation Water System.
CC.	WATER	Irrigation water furnished by means of the City-Operated Secondary Irrigation Water System, unless the context clearly otherwise indicates, as in provisions prohibiting intermingling of culinary and irrigation water.
DD.	WATER MAIN EXTENSIONS	The extension of any secondary irrigation main or service line. It shall be completed as per Providence City Code 8-1-10 (A) to (F).
EE.	WATER METERS	For purposes of this ordinance, meters installed by the City to measure usage of water from the City-Operated Secondary Irrigation Water System.

FF.	WATER SERVICES(S)	For purposes of the ordinance, the provision of secondary water by means of the City-Operated Secondary Irrigation Water system.
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8-5-4: SECONDARY WATER DIRECTOR

- A. **Position Created:** The Public Works Director shall assume the duties of Secondary Water Director, Supervisor of the Secondary Water Department. This person shall be referred to as the “Secondary Water System Director” or the “Director.” The Public Works Director may designate other City employees to assume all or part of the Director duties herein.
- B. **Powers and Duties:** The Director shall manage and supervise the Department pursuant to the provisions of this Chapter and pursuant to rules, policies, and regulations adopted by the City Council from time to time prescribing his/her powers and duties.

8-5-5: SECONDARY WATER MASTER PLAN:

- A. It is the intent of Providence City to prepare and adopt a Secondary Water Master Plan (“the Plan”) which shall, among other things, identify areas which will likely be suitable for expansion of the City-Operated Secondary Irrigation Water System. The Plan shall include areas of existing development which may be suitably retrofitted to access the Secondary Water System. The Plan shall further identify and estimate anticipated costs, current and future, associated with design, construction and maintenance of the City-Operated Secondary Irrigation Water System.
- B. The above items are not an exhaustive list of the information to be included in the Plan. The Plan may include any information, recommendation or policy that Providence City determines necessary and proper to create, construct and maintain the City-Operated Secondary Irrigation Water System.
- C. There may be areas that the City has previously identified as suitable for construction of a City-operated Secondary Irrigation Water System. Any such areas which have been formally identified through development agreement or other similar agreement) as suitable for construction may begin construction of their portion of the Secondary Water System prior to adoption of the Plan.
- D. Adoption of this ordinance is not contingent upon the completion of a Secondary Water Master Plan.

8-5-6: ENFORCEMENT

- A. The Director is authorized and directed to enforce the provisions of this Chapter and all other rules and regulations adopted by the City Council pertaining to the management and operation of the Secondary Irrigation Water Department and System.
- B. **Right of Entry:** The Director, duly appointed assistant, or other City employee or official, as directed by the governing body, shall, at all ordinary hours and reasonable times, have free access to any premises supplied with service from the City-Operated Secondary Irrigation Water System for the purpose of examining System apparatus,

1 ascertaining the amount and manner of use of water provided by the Water System,
2 determining propriety of water use, verifying system functionality, repairing faulty
3 equipment, and performing any other duty prescribed by this Chapter and all other rules
4 and regulations adopted by the City Council. Such access shall not be deemed trespass.
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6 C. **Refusal of Entry:** If, upon presenting proper identification credentials and requesting
7 entry, the director or other authorized person is denied access to the premises for the
8 purposes stated in Subsection 8-5-6(B), the Director shall have recourse to every
9 remedy provided by law to secure entry. The Director may, further, interrupt Secondary
10 Water Service as provided by this Chapter until such time as appropriate remedial
11 measures may be taken.
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13 D. **Stop Work Orders:** Whenever a person, in a manner contrary to the provisions of this
14 Chapter, **(1)** repairs, maintains, or otherwise works on the System, or **(2)** uses Irrigation
15 Water; the Director may order the repair, maintenance, extension work, or usage
16 stopped by notice in writing served on any person engaged in, directing, or causing such
17 work or use. Any person thus served shall stop such work or usage until such time as **(a)**
18 the City Council renders a decision as to the continuation of the work or usage, or **(b)**
19 another appropriate remedy is applied, conforming to the provisions of this chapter.
20 Notwithstanding this subsection, however, upon discovery of any use or connection
21 which may constitute a hazard to safety or health (see Section 8-5-11, Prohibited Acts),
22 the person discovering such shall immediately notify the Director and this Subsection, 8-
23 5-6 shall take immediate effect.
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25 E. **Cooperation of Other Officials and Employees:** The Director may request and shall
26 receive, so far as is required in the discharge of his duties, the assistance and
27 cooperation of other officials and employees of Providence City.